

MONTANA LEGISLATIVE HISTORY

Chapter 436 19 77

Bill H 356 S _____

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) 1-26 _____ C

2-4 _____ C

2-11 _____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3/26 _____ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 H BILL NO. 356
 2 INTRODUCED BY Bob Hoyer Frates Johnston
 3 June
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 95-2206 TO PROVIDE THAT A SENTENCE FOR A TRAFFIC LAW
 6 VIOLATION IS NOT DEFERRABLE."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 95-2206, R.C.M. 1947, is amended to
 10 read as follows:
 11 "95-2206. Sentence. Whenever any person has been found
 12 guilty of a crime or offense upon a verdict or a plea of
 13 guilty the court may:
 14 (1) Defer imposition of sentence, excepting sentences
 15 for traffic law violations, for a period not to exceed one
 16 (1) year for any misdemeanor; for a period not to exceed
 17 three (3) years for any felony. The sentencing judge may
 18 impose upon the defendant any reasonable restrictions or
 19 conditions during the period of the deferred imposition.
 20 Such reasonable restrictions or conditions may include:
 21 (a) jail base release;
 22 (b) jail time not to exceed ninety (90) days;
 23 (c) conditions for probation;
 24 (d) restitution;
 25 (e) any other reasonable conditions deemed necessary

1 for rehabilitation or for the protection of society;
 2 (f) any combination of the above.
 3 (2) Suspend execution of sentence up to the maximum
 4 sentence allowed for the particular offense. The sentencing
 5 judge may impose on the defendant any reasonable
 6 restrictions during the period of suspended sentence. Such
 7 reasonable restrictions may include:
 8 (a) jail base release;
 9 (b) jail time not to exceed (90) days;
 10 (c) conditions for probation;
 11 (d) restitution;
 12 (e) any other reasonable conditions deemed necessary
 13 for rehabilitation or for the protection of society;
 14 (f) any combination of the above.
 15 If any restrictions or conditions are violated, any
 16 elapsed time, except jail time, shall not be a credit
 17 against the sentence, unless the court shall otherwise
 18 order.
 19 (3) Impose a fine as provided by law for the offense.
 20 (4) Commit the defendant to a correctional institution
 21 with or without fine by law for the offense.
 22 (5) Impose any combination of subsections (2), (3), or
 23 (4) above.
 24 (6) The district court may also impose any of the
 25 following restrictions or conditions on the above sentence

INTRODUCED BILL

1 which it deems necessary to obtain the objective of
2 rehabilitation and the protection of society:

3 (a) prohibit the defendant the right to hold public
4 office;

5 (b) prohibit the defendant the right to own or carry a
6 dangerous weapon;

7 (c) prohibit freedom of association;

8 (d) prohibit freedom of movement;

9 (e) any other limitation reasonably related to the
10 objectives of rehabilitation or the protection of society.

11 (7) The judge in the justice court shall not have the
12 authority to restrict an individual's rights as enumerated
13 in subsection (6).

14 Any judge who has suspended the execution of a sentence
15 or deferred the imposition of a sentence of imprisonment
16 under this section, or his successor, is authorized
17 thereafter, in his discretion, during the period of such
18 suspended sentence or deferred imposition of sentence to
19 revoke such suspension or impose sentence and order such
20 person committed, or may, in his discretion, order the
21 prisoner placed under the jurisdiction of the state board of
22 pardons as provided by law, or retain such jurisdiction with
23 this court. Prior to the revocation of an order suspending
24 or deferring the imposition of sentence, the person affected
25 shall be given a hearing."

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 354	fine or imprisonment for the offense of driving while intoxicated may be suspended on successful completion of driver improvement etc.	1-21	Gould	Weds 26	sub-committee Weds 26th Table	2-11
HB 356	to provide that a sentence for a traffic law violation is not deferrable	1-21	Gould	Weds 26	sub-committee Weds 26th do not pass	2-11
HB 357	to establish a state-financed program of compensation to persons who suffer bodily injury etc.	1-21	Quilici	Weds 2nd	do pass	2-4
HJR 32	to preserve and perpetuate indian culture and traditions and to endorse indian religious practices etc.	1-24	Kennerly	Thursday 27th	do pass as amended	2-4
HB 367	defining the elements of an action for bad faith prosecution. etc.	1-24	South	Thursday 27th	do not pass	2-15
HB 374	authorizing voluntary contractual arbitration of disputes arising from injury or death caused by professional negligence	1-24	Ramirez	Friday 28 Monday 31st	do pass as amended	2-19

JUDICIARY COMMITTEE

January 26, 1977

The regularly scheduled meeting of the House Judiciary Committee was held on Wednesday, January 26th at 8:00 A. M. with Chairman Scully presiding. All members were present with the exception of Representative Dussault who was excused and then came in later.

Bills scheduled for hearing were House Joint Resolution #17 and House Bills #313, 243, 334, 354 and 356.

CHIEF SPONSOR REPRESENTATIVE MOORE, District #41 introduced House Bill #334 and spoke in its behalf.

the This bill concerns the pleading of damages in actions for personal injury or wrongful death. He introduced Gerald Neeley, representing the Montana Medical Association. He was a proponent for the bill and spoke in favor of it. He said the bill has a number of points of merit. He talked about the high cost of the insurance and that only 16% of the premium dollar ever filters down to the patient. He explained the bill, and discussed the bar association commission study that had been done. He asked the committee to support this bill.

PROPONENT, JOHN CAVIN, Attorney, Billings, Montana. He said the Billings Bar Association was in support of this bill.

OPPONENT, KENT PARCELL, representing the State Bar of Montana said the Bar Association supports this bill.

OPPONENT, TOM DOWLING, representing the Montana Trial Lawyers Association said they strongly oppose this bill. He said the bill is trying to revamp the entire tort system. If you are going to do that then how do you handle the default. There should be an amendment, as to jurisdiction of limits.

REPRESENTATIVE COURTNEY asked of Mr. Dowling, how many malpractice cases are heard each year. He said he did not have the figures. A survey had been done but it was not broken down, it only makes comparisons. There was then some discussion about how many were settled, etc.

REPRESENTATIVE RAMIREZ mentioned that on the default it indicated that notice has to be given and how would they do that.

Mr. Neeley said you would have to give him notice of claim. There was considerable discussion about how this would be done.

REPRESENTATIVE RAMIREZ asked if the new changes in the Montana Code of Civil practice did not require that they reveal the insurance policy limits, and Mr. Neeley said, yes, it had been passed by the legislature.

The hearing closed on House Bill #334.

THE HEARING OPENED ON HOUSE JOINT RESOLUTION #17.

PROPONENT, REPRESENTATIVE O'CONNELL, District #34, explained the purpose of the bill, called the right to life amendment. She mentioned that the bill requests that the state apply to the Congress of the United States to call convention for the purpose of proposing an amendment to the United States Constitution, in the effect that the right to life guarantee that every human being subject to the jurisdiction of the United States or any state is, from the moment of fertilization, a person with the right to life.

No other proponents.

OPPONENT, LINDA SANDMAN, Representing the Women's Political Caucus, asked the committee to look at how this bill would work. She said there are two routes that can be taken for a constitutional amendment and that this route was wrong. She opposed the bill on that stand.

REPRESENTATIVE O'CONNELL closed with the remark that "everything worth getting is worth fighting for".

The hearing closed on House Joint Resolution #17.

THE HEARING OPENED ON HOUSE BILL #243.

CHIEF SPONSOR, REPRESENTATIVE KIMBLE, District #94, stated that this bill would permit a person to drive if their employment required it, even though their drivers license might be revoked for a charge of driving while intoxicated, or under the influence of drugs. It would provide for a special permit, but only when providing proof of condition of employment. He said they should not be permitted to drive except in the course of their employment.

No other proponents.

OPPONENT, CAPTAIN TOOLEY, of the Montana Highway Patrol, spoke against the bill, but he said it was only because there was another bill that he felt was better, and that the department feels is better. There was considerable discussion about the judge and the discretion of the judge, etc.

The hearing closed on House Bill #243.

THE HEARING OPENED ON HOUSE BILLS #354 and 356, sponsored by:

REPRESENTATIVE GOULD, District #98. He mentioned that there should be three bills in this package, but one had inadvertently gotten into the Highway Committee but that he asked the Judiciary Committee to withhold any action until they had received House Bill #355, which would be coming over, and that they then consider them all three together.

PROPONENT, CAPTAIN TOOLEY, Montana Highway Patrol, spoke in behalf of these three bills. He said they all deal with various driver rehabilitation in different forms. To provide for a driver rehabilitation counsel, to improve driving technique, etc.. This would be largely under the control of the Department of Justice. He mentioned some of the organizations in support of the bill, such as the Highway Safety Office, the Traffic Education Department, the Patrol Office, etc.

There was discussion about 1st, 2nd and 3rd offenses, and the penalty for these.

Captain Tooley stated that he would like to committee to amend Bill #354, on page 4, subsection (d), line 10, after institutions, insert the words, "except as otherwise provided in this chapter".

A spokesman for the Department of Community Affairs, stated that they support the concept and the intent of the bills. He said that they could provide some service and rehabilitation to the convicted DWI. I feel that it is the basic package of bills that are in full support of the law enforcement and that are related to traffic matters in the state.

PROPONENT, GEORGE SWARTZ, Department of Institutions, alcohol and drug section, said he was in support of these bills. He said there are some programs across the state at the present time but they have to be worked locally. He said they had discussed at length the need for these bills with the Highway Patrol.

Could closed with asking the committee to support them as a package.

REPRESENTATIVE SEIFERT, asked Captain Tooley, how many are convicted of driving while intoxicated each month, and the Captain said, they have about 200 on a first offense each month.

He then asked how many personnel would be needed to set up this program.

CAPTAIN TOOLEY, said there would be a fiscal note on this.

REPRESENTATIVE ROTH, asked who would make the determination of who should attend these programs, and the Captain said the 2nd or subsequent offender would be treated as if he had an alcohol problem. There was discussion about the point system and it was mentioned that ten points are registered for DWI.

The Hearing closed on House Bills #354 and 356.

CHAIRMAN SCULLY appointed a sub-committee to study these three bills, as soon as House Bill #355 comes over from the Highway Committee. Appointed to the sub-committee was Representative Lory, Chairman, and Representative Seifert and Representative Keyser.

January 31, 1977

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SENATOR TOWE:

Yes, not necessarily in Montana, but look at the examples I gave the committee.

After some general discussion the hearing closed on House Bill #475.

THE HEARING OPENED ON HOUSE BILL #374:

REPRESENTATIVE RAMIREZ, DISTRICT #64:

This bill is concerned with medical malpractice. It authorizes a voluntary, contractual arbitration of disputes arising from injury or death caused by professional negligence of a health care or other professional or hospital and provides for a "positive option" on the part of the patient. The patient could subsequently withdraw from the agreement. I think there is a problem and as a result of that problem people are paying a high cost for insurance. He then went on to explain in greater detail how it would work, how it would affect people, etc.

It was noted that Representative Gould had been prepared to answer questions on House Bill #355, which had been heard on the preceeding week. As there were no questions from the committee he left the hearing. The three bills are in sub-committee and they had been waiting for this particular bill, which was one of three. The other two had been in the committee and this one was now here also. Chairman Scully told the sub-committee they could now go ahead with the study and present their findings to the full committee at a later date.

CHAIRMAN SCULLY then directed the committee's attention to the hearing on House Bill #374. REPRESENTATIVE RAMIREZ commented that there are physicians that are being chased out of practice. We are losing physicians when we need them. When a claim is made against a physician there should be a way to determine if it has any merit. There are a lot of claims that have no merit. Consequently, it affects them tremendously and they certainly must have less time to devote to their practice and the care of their patients. The problem is, who is going to bear that loss. Is it going to be the person injured, is it going to be the doctor, or will it be passed on to the patient, or through some tax program or otherwise. Keep in mind, how is this claim going to be determined. Is there some better way to do what we are now doing? This bill simply provides an alternative. We need a way of determining a malpractice claim. Traditionally we have used the jury system. The jury system is the best way for everyday facts but when it comes to technical facts a legitimate question arises as to whether that is the best way to make that decision. In that case, there is a question whether a jury is the best vehicle for making the determination. A jury trial will take twice as long to try a case. This is not taking away the jury determination in all instances. If someone wants a jury trial they can have it.

JUDICIARY COMMITTEE

EXECUTIVE SESSION

February 4, 1977

The executive session of the House Judiciary Committee was called to order by Chairman Scully in room 436 of the Capitol Building, Helena, Montana, at 10:15 a.m. Representatives Roth and Hand were excused.

HOUSE JOINT RESOLUTION #1:

REPRESENTATIVE DAY reported from the water sub-committee as to action taken by them. He moved adoption of the committee report "do not pass". The motion was seconded and carried with the vote unanimous.

HOUSE BILLS #251, 243, 260, 354, 355, and 356:

REPRESENTATIVE LORY reported from the sub-committee working on the DWI package of bills. He said they did not recommend any action, but did have a proposed amendment for HB #243, as follows:

Amend page 4, section 1, subsection (g), line 19.

Following: "drive"

Insert: "to and from work and in the course of his employment. The division of motor vehicles may not issue a special permit to any person convicted of a third offense under this section when such offense occurs within 3 years of the first conviction."

REPRESENTATIVE RAMIREZ moved to amend by changing 3rd to 2nd. The motion failed. The question was called on the original amendment which passed. REPRESENTATIVE SEIFERT moved "do not pass".

REPRESENTATIVE DAY moved a substitute motion "do pass as amended". The motion was seconded and the question called and the motion passed.

REPRESENTATIVE LORY moved to return the other DWI bills to the sub-committee. The motion carried.

CHAIRMAN SCULLY said he wanted to appoint Representatives Dussault and Courtney to the sub-committee, which consisted of Representatives Lory, chairman, Seifert and Keyser.

REPRESENTATIVE LORY moved to reconsider HB 243 and include it with the others to go back to sub-committee. The motion carried with the following representatives voting "no";

Scully, Courtney, Hand and Holmes.

HOUSE BILLS #456 and 556:

REPRESENTATIVE SEIFERT reported the sub-committee had found HB 556 to be almost totally unworkable. After further explanation he moved "do not pass" on HB 556. The motion carried with Representatives Holmes, Ramirez and Teague voting "no".

REPRESENTATIVE SEIFERT moved "do pass" on HB #456. The motion carried with the vote unanimous.

JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 11, 1977

Following the regularly scheduled meeting of the House Judiciary Committee, the following bills were acted upon. Chairman Scully presided.

HOUSE BILL #472:

REPRESENTATIVE DAY made a motion "do pass". The motion was seconded and the motion carried with the vote unanimous.

HOUSE BILL #91:

HOUSE BILL #92:

HOUSE BILL #121: remain tabled indefinitely.

HOUSE BILL #641:

REPRESENTATIVE KEYSER made a motion the amendments be adopted. The motion carried with the vote unanimous. REPRESENTATIVE COURTNEY made a motion "do pass" as amended. The motion carried with the vote unanimous.

HOUSE BILL #672:

REPRESENTATIVE COLBURN made a motion "do pass".

REPRESENTATIVE HOLMES made a motion to amend page 5, line 10.

The amendment carried with Representatives Baeth, Keyser and Ramirez voting "no". Representative Holmes moved a second amendment and Representative Ramirez offered a substitute amendment on line 14. The amendment failed to pass.

CHAIRMAN SCULLY appointed a sub-committee to work over these amendments and present them to the committee. The sub-committee consists of Representatives Ramirez, Holmes and Colburn.

REPRESENTATIVE LORY reported from the sub-committee to study the DWI bills in the committee. He stated they would prefer to take each of the bills individually, which the full committee agreed to do.

HOUSE BILL #356:

REPRESENTATIVE LORY made a motion "do not pass". The motion carried with Representatives Holmes and Ramirez voting "no".

HOUSE BILL #243:

REPRESENTATIVE LORY read the suggested amendments to this bill. The amendments carried with the vote unanimous.

REPRESENTATIVE TEAGUE made a motion to amend the effective date. The motion carried with the vote unanimous.

REPRESENTATIVE HOLMES made a motion to amend by adding "or school" to be included in addition to "to or from work".

The motion carried with Representatives Eudaily, Keyser, and Lory voting "no".

REPRESENTATIVE KEYSER made a motion to "do pass as amended". The motion carried with the vote unanimous.

1977

COMMITTEE ON

JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
H.B. 310	2-5-77	2-21-77	2-21-77				2-21-77		
H.B. 320	2-16-77	3-15-77	3-24-77				3-24-77		
H.B. 320	Rereferred 3-28-77	3-28-77	3-29-77						3-29-77
H.B. 320	Rereferred 4-2-77	4-2-77	4-2-77					4-2-77	
H.B. 326	2-17-77	3-14-77	3-29-77					3-29-77	
H.B. 334	3-5-77	3-28-77	3-31-77					3-31-77	
H.B. 343	3-2-77	3-16-77	3-16-77				3-16-77		
H.B. 352	3-4-77	3-11-77	3-11-77					3-11-77	
H.B. 355	4-6-77	4-8-77	4-8-77					4-8-77	
H.B. 356	2-21-77	3-25-77	3-31-77					3-31-77	
H.B. 357	4-5-77	Word 4-2 4-12-77	4-12-77						As amended be NOT 4-12-77
H.B. 363	2-25-77	3-17-77	3-19-77					3-19-77	
H.B. 371	2-25-77	3-17-77	3-19-77					3-19-77	
H.B. 374	3-5-77	3-28-77	3-31-77						3-31-77
H.B. 384	3-9-77	3-10-77	3-10-77					3-10-77	
H.B. 395	2-25-77	3-11-77	3-11-77				3-11-77		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 25, 1977

The meeting of this committee was called to order on the above date by Senator Turnage, Chairman, at 9:40 a.m. in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senators Regan and Roberts who were excused to attend other meetings.

WITNESSES PRESENT TO TESTIFY:

Rep. Meloy - District 29, Helena
Larry Elison - office of the Governor
Mr. R. Meek - Probation Officers Assn.
Rep. Gary Kimble - Missoula
Capt. Tooley - Montana Highway Patrol
Tom Honzel - County Attorneys Assn.
Rep. Gould - Missoula

CONSIDERATION OF HOUSE BILL 654:

Rep. Meloy of District 29 in Helena, sponsor of the bill, said that, under the youth court act, a youth under supervision cannot technically be placed in one of the present correctional facilities. A few are kept at those facilities, but they should not be there for detention purposes. There are some at those institutions for 45-day evaluations when a court feels a youth should be evaluated because of the crime he has committed or because of a status offense. Early last fall the Legislative Council was asked to do a study of any problems existing at Pine Hills because of complaints of parents who had children kept there. A very thorough study was done and a report made back to the Legislative Council in late January, 1977. Some of the things they found were that the youths are kept in Custer Lodge at Pine Hills which has about 25 beds in an open room. Serious offenders and those just held for evaluation are kept together in this lodge and some of the youths were beaten by others. There is no specific attention given to this lodge. Pine Hills does not have a medical doctor or a psychiatrist. It does have a few nurses. He asked to have this bill amended to make it clear that the 45-day evaluation youths not be evaluated at Pine Hills or Mountain View in Helena. The House Judiciary Committee felt that there are facilities in the communities that were already there which could do these evaluations. Rep. Scully does not send any youths to Pine Hills from Bozeman because he can get the evaluation done faster in Bozeman. Some communities won't do that. There is federal funding available for a pilot program and we would just improve present facilities and not build a new place. He said that the evaluations of delinquent youths could not be done in Pine Hills or Mountain View if this bill is passed.

When they are convicted they tell the judge that they need the car and that they have an alcohol problem and some judges defer the sentence with the provision that the person take treatment. He said that he does not believe that the justices of peace have this privilege. He thinks that HB 251 is a better solution to the problem than HB 243. The House felt it was important to add lines 1 through 4 on page 4 and lines 19 through 22. The important parts of the bill are subsections (3) and (4). In subsection (4) the court may, in its discretion, suspend sentence upon the condition that the driver must successfully complete the school prescribed in this bill. Since the law has decriminalized drinking offenses, they are asking for a law which will give them something to work with.

Capt. Tooley of the Montana Highway Patrol submitted amendments to the bill and said that he is afraid the patrol would have too many penalty forms if not amended. (See Exhibit 2) He explained the proposed amendments and what they would accomplish. The second amendment would make a substantive change in the bill. They need some insurance protection for the people who are going to drink and drive. The patrol's operation would not be so complicated if they could understand the instructions and the person could get insurance. At this time, Capt. Tooley gave the committee a copy of the bill as it would read with the amendments incorporated in it. (See Exhibit 3)

Rep. Gould told the committee that HB 355 should be coming to the Senate Finance & Claims Committee the early part of next week or to the Judiciary Committee, and he asked that they be all considered together as a package.

Rep. Kimble told the committee he did not oppose nor was he in favor of HB 251 -- that it was just a matter of what the committee wants.

Tom Honzel said that they think the schooling (the alcohol treatment program) is the key thing in this bill. Basically Capt. Tooley's amendments would do away with that, and he thinks the patrol amendments should be expanded a little.

CONSIDERATION OF HOUSE BILL 356:

Rep. Gould of District 98 in Missoula, sponsor of the bill, said that this would do away with the deferred imposition of sentence in a DWI offense. He feels that it is a very necessary bill.

Capt. Tooley of the Montana Highway Patrol, a proponent of the bill, said the best thing that can be said for this bill is the offense of DWI. They have had occasions where the deferred imposition has been imposed and they feel that, if this package of bills goes through, there would be no need to defer and it would be advantageous to have this bill. He said that HB 356 goes hand in hand with HB 355 and 251 -- even without HB 251, and that intoxication does include both alcohol or drugs.

After questions by committee members, the hearing was closed.

JUDICIARY COMMITTEE

Date 8-25-77

[illegible]

Note Bill No.

(Please leave prepared statement with Secretary)

HOUSE BILL NO. 356

INTRODUCED BY GOULD, KEYSER, FRATES, JOHNSTON, LUND

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 95-2206 TO PROVIDE THAT A SENTENCE FOR ~~A--TRAFFIC-LAW VIOLATION DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS~~ IS NOT DEFERRABLE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 95-2206, R.C.M. 1947, is amended to read as follows:

"95-2206. Sentence. Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:

(1) Defer imposition of sentence, ~~excepting sentences for traffic-law-violations DRIVING WHILE--INTOXICATED UNDER THE INFLUENCE OF ALCOHOL OR DRUGS~~, a period not to exceed one (1) year for any misdemeanor; for a period not to exceed three (3) years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:

- (a) jail base release;
- (b) jail time not to exceed ninety (90) days;
- (c) conditions for probation;

(d) restitution;

(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;

(f) any combination of the above.

(2) Suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:

(a) jail base release;

(b) jail time not to exceed (90) days;

(c) conditions for probation;

(d) restitution;

(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;

(f) any combination of the above.

If any restrictions or conditions are violated, any elapsed time, except jail time, shall not be a credit against the sentence, unless the court shall otherwise order.

(3) Impose a fine as provided by law for the offense.

(4) Commit the defendant to a correctional institution with or without fine by law for the offense.

(5) Impose any combination of subsections (2), (3), or (4) above.

REFERENCE BILL

1 (6) The district court may also impose any of the
2 following restrictions or conditions on the above sentence
3 which it deems necessary to obtain the objective of
4 rehabilitation and the protection of society:

5 (a) prohibit the defendant the right to hold public
6 office;

7 (b) prohibit the defendant the right to own or carry a
8 dangerous weapon;

9 (c) prohibit freedom of association;

10 (d) prohibit freedom of movement;

11 (e) any other limitation reasonably related to the
12 objectives of rehabilitation or the protection of society.

13 (7) The judge in the justice court shall not have the
14 authority to restrict an individual's rights as enumerated
15 in subsection (6).

16 Any judge who has suspended the execution of a sentence
17 or deferred the imposition of a sentence of imprisonment
18 under this section, or his successor, is authorized
19 thereafter, in his discretion, during the period of such
20 suspended sentence or deferred imposition of sentence to
21 revoke such suspension or impose sentence and order such
22 person committed, or may, in his discretion, order the
23 prisoner placed under the jurisdiction of the state board of
24 pardons as provided by law, or retain such jurisdiction with
25 this court. Prior to the revocation of an order suspending

1 or deferring the imposition of sentence, the person affected
2 shall be given a hearing."

-End-